

1 DAVID L. ANDERSON (CABN 149604)
United States Attorney

2
3 HALLIE HOFFMAN (CABN 210020)
Chief, Criminal Division

4 CYNTHIA L. STIER (DCBN 423256)
5 Assistant United States Attorney

6 450 Golden Gate Avenue, Box 36055
7 San Francisco, California 94102-4395
Telephone: (415) 436-7000
8 Email: Cynthia.stier@usdoj.gov

9 Attorneys for the United States of America

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,)	CASE NO. 3:18CR00252-001 WHO
15)	
16 Plaintiff,)	UNITED STATES' SENTENCING
17)	MEMORANDUM
18 v.)	
19 ANDREW STEPHEN FAYLONG,)	Date: June 25, 2020
20)	Time: 1:30 p.m.
21 Defendant.)	

22 **I. INTRODUCTION**

23 On June 12, 2018, a one-count indictment was filed charging Andrew Stephen Faylong
24 (Defendant) with a violation of 21 U.S.C. § § 841(a)(1) and 841(b)(1)(C) – Possession with Intent to
25 Distribute Heroin (Count One).

26 Defendant entered a plea of guilty by open plea on November 16, 2018. Defendant was referred
27 to ATIP on March 13, 2019, and successfully completed the program on April 8 2019. He is scheduled
28 to be sentenced before the Honorable William H. Orrick, III on June 25, 2020, at 1:30 p.m.

II. FACTUAL BACKGROUND

Andrew Faylong was identified as a mid-level heroin dealer from Sonoma County. PSR ¶ 6. Faylong was on probation with a warrantless search and seizure of his person, property, and personal business or vehicle at any time of the day or night. PSR ¶ 8. A GPS tracker was attached to Faylong's vehicle and a probation search conducted at his residence. PSR ¶ 8, 9. According to Faylong, he told officers there was an unloaded gun in his closet. PSR ¶ 9. Agents found drug paraphernalia with black tar heroin residue, a half ounce of marijuana, four ounces of heroin, heroin residue, approximately 100 hydrocodone tablets without a prescription, and a stack of approximately \$100 in one-dollar bill dominations, three suboxone strips, and hand written notes with names and phone numbers, PSR ¶ 11, 12. DEA lab reports the drug quantity is 69.16 grams of heroin. PSR ¶ 15. Agents also found an unloaded .22 derringer type pistol. PSR ¶ 12. Faylong was fully cooperative during the detention.

III. CRIMINAL HISTORY

The United States Probation Officer calculated Defendant's criminal history as CHC VI. Defendant, currently 38 years old, has a string of seven petty theft and burglary convictions between ages 25 and 30; a 2009 conviction at age 26 for driving on a suspended license; and possession of drugs in 2011 and 2012. The United States is in agreement with the USPO as CHC VI.

IV. SENTENCING RECOMMENDATION

The PSR calculated a total offense level of 19, CHC VI, which results in a guideline imprisonment range of 63 – 78 months. The PSR recommends a sentence of time served, probation, and a \$100 special assessment. The United States agrees with the PSR calculation of Total Offense level of 19 and Criminal History Category of VI.

1 The United States does not recommend a sentence however, it notes that the Court has discretion
2 to impose a non-custodial sentence if appropriate based on the consideration of the § 3553(a) factors.

3 In balancing the aggravating and mitigating factors, considering the serious nature of the offense,
4 defendant's substantial criminal history, his childhood trauma, his long-term drug addiction, and his
5 positive performance while in ATIP, it appears that Defendant's criminal conduct is related to his long-
6 standing struggle with addiction. His post-plea performance appears to have mitigated his risk of
7 recidivism. Because the Defendant's post-plea performance has been successful, the United States
8 urges this Court to impose a period of supervised release or probation sufficient to continue the services
9 recommended by probation.
10

11 **V. CONCLUSION**

12 The United States requests that the Court consider the aggravating and mitigating factors to
13 determine if the Defendant presents a significant risk of recidivism pursuant to 18 U.S.C. § 3553(a), to
14 consider an appropriate sentence, and to impose a period of probation to continue services recommended
15 in the PSR.
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18 Respectfully submitted,

19 DAVID L. ANDERSON
20 United States Attorney

21 /s/ Cynthia Stier
22 CYNTHIA STIER
23 Assistant United States Attorney
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